



November 7, 2019

Via Email

Sherry R. Scott, Esq.
City Attorney
Scottsdale City Attorney's Office
3939 N. Drinkwater Blvd.
Scottsdale, Arizona 85251-4468
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Re: Sunday Goods Rezoning Ordinance No. 4424 Request No. 5-ZN-2019

Dear Sherry:

I represent Sunday Goods, who is the applicant in the above referenced rezoning and conditional use permit matter. Sunday Goods has requested that the City of Scottsdale authorize it to operate a medical marijuana dispensary at 4225 North Winfield Scott Plaza, Scottsdale, Arizona 85251. It is my understanding that Withey Morris is the legal representative for Sunday Goods in the rezoning CUP matter.

I have been asked by Sunday Goods to share with you the legal claims that it will have against the City of Scottsdale should the City not approve the rezoning/CUP request.

As you know, the State of Arizona passed the Arizona Medical Marijuana Act (the "AMMA"), pursuant to which the State granted a license to Sunday Goods to operate a dispensary at this location. The State, therefore, preempted the City of Scottsdale from excluding a medical marijuana dispensary at this location. Since the City of Scottsdale has designated an extraordinarily tiny area in which a new medical marijuana dispensary can operate—roughly a two block area—and because Sunday Goods has the only viable location within that area, should the City of Scottsdale not pass the pending rezoning/CUP case, the City's actions will be illegal as exclusionary zoning and contrary to the AMMA.

As I am sure you are aware, the City of Scottsdale recently lost a nearly identical issue in which the court of appeals held that Scottsdale's ordinance was preempted by State law. *City of Scottsdale v. State*, 237 Ariz. 467 (App. 2015).

Moreover, the court of appeals in *White Mountain Health Center, Inc. v. Maricopa County*, 241 Ariz. 230 (216), held that the doctrine of preemption prohibits zoning regulations that ban dispensaries because such regulations are not consistent with the provisions of the AMMA. The court of appeals adopted the reasoning from a similar case, *Beek v. City of Wyoming*, 846 N.W. 2d 531, 536-41 (S. Ct. Mich. 2014). In *Beek*, the Supreme Court of Michigan held that the Michigan medical marijuana

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act preempted local municipalities from taking action that would preclude medical marijuana dispensaries within their jurisdictions.

I have attached to this letter a memorandum setting forth these points of law in more detail. However, the basic point here is that the Sunday Goods application is for a use that the City of Scottsdale is required to approve pursuant to the AMMA.

Sincerely,

ZEITLIN & ZEITLIN, P.C.



Dale Zeitlin

DSZ/lg
Enclosure